IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 49 OF 2007
IN
WRIT PETITION NO. 1534 OF 2005

Atlanta Premises Co-operative
Society Ltd. & Anr. .....Petitioners.

V/s

Municipal Corporation of
Brihanmumbai & Ors. ....
Respondents.

Mr. Milind Sathe with Mr. A.S. Doctor i/b Junnarkar & Associates for applicants/Petitioners in support of the Chamber Summons.

Ms Archana Joshi with Mr. K.K. Singhvi for the Respondent - Municipal Corporation.

CORAM: V.M. KANADE, J.

DATE : 3rd April, 2007.

P.C.:

1. Heard the learned Counsel for the Petitioners and the learned advocate appearing on behalf of the Respondent - Municipal Corporation.

2. The learned advocate appearing on behalf of the Corporation submits that Mr. Singhvi, the learned Counsel wishes to argue this Chamber Summons and that he is on his legs before the First Court. This matter was specifically kept today for hearing and merely because the Counsel is not present, I do not propose to adjourn the hearing of the Chamber Summons.

3. This Chamber Summons is taken out by the Petitioners challenging the constitutional validity of section 167 of the Mumbai Municipal Corporation Act, 1888. The learned Counsel for the Petitioners has submitted that in the event the Petitioners do not succeed before the Supreme Court then, they may be permitted to again renew their request by filing the fresh Chamber Summons.

4. In my view, Chamber Summons has been filed for the

purpose of taking an additional ground in the Petition, challenging the constitutional validity of section 167 of the Mumbai Municipal Corporation Act, 1888. There is no reason why the Petitioners should not be permitted to raise this additional ground particularly when interim orders have been passed which are in consonance with the orders which are passed by the Supreme Court in the Special Leave Petition which is pending in the Supreme Court. Hence, Chamber Summons is allowed in terms of prayer clause (a). The Petitioners are permitted to amend the Petition in terms of the schedule annexed to the Chamber Summons. Amendment to be carried out within a period of two weeks.

5. Chamber Summons is disposed of in the above terms.

(V.M. KANADE, J.)